

**Illinois Department of Revenue
Regulations**

Title 86 Part 435 Section 435.210 Criminal and Civil Penalties

TITLE 86: REVENUE

**PART 435
CHARITABLE GAMES ACT**

Section 435.210 Criminal and Civil Penalties

- a) The Act establishes criminal penalties for violations as follows:
 - 1) Section 4(1) of the Act provides that any willful misstatement contained in an application for a license to conduct charitable games constitutes perjury.
 - 2) Section 6 of the Act provides that any person or organization which knowingly sells, leases, or distributes for compensation within this State, or possesses with intent to sell, or lease, or distribute for compensation within this State, any charitable games equipment without having first obtained a license to do so from the Department is guilty of a Class A misdemeanor, the fine for which shall not exceed \$50,000.
 - 3) Section 12 of the Act states that *any person who conducts or knowingly participates in an unlicensed charitable game commits the offense of gambling in violation of Section 28-1 of the Criminal Code of 1961.*
 - 4) Section 12 of the Act provides that any person who violates any provision of the Act or who knowingly violates any rule or regulation of the Department for the administration and enforcement of the Act, is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony .
 - 5) *Any person who fails to file a charitable games return or who files a fraudulent return or application under the Act or any officer or agent of an organization or a corporation licensed under the Act who signs a fraudulent return or application filed on behalf of such organization or corporation, is guilty of a Class A misdemeanor. Any second or subsequent violation constitutes a Class 4 felony (Section 12 of the Act).*
- b) Forfeitures shall be imposed as follows:
 - 1) Any charitable games equipment used at an unlicensed charitable games event is forfeited to the State, and will be confiscated. Any charitable games equipment used at the charitable games event of a licensee whose license has been suspended or revoked is forfeited to the State, and will be confiscated.

- 2) Any charitable games equipment used for any form of illegal gambling at an otherwise properly licensed charitable games event is forfeited to the State, and will be confiscated.
 - 3) The gross proceeds from any charitable games event described in subsection (b)(1) above, or from any illegal gambling at any licensed charitable games event, are forfeited to the State and will be confiscated. The Department shall determine the amount of gross proceeds based on all information available to the Department and its judgment of all the facts of each particular case.
 - 4) The Department will provide a detailed written receipt describing all confiscated equipment and proceeds.
- c) The Act establishes civil penalties as follows:
- 1) In addition to, or independently of, confiscation and any forfeiture of gross proceeds as provided in subsection (b)(3) above, the Department shall assess against an organization a civil penalty equal to the amount of gross proceeds derived by the organization from any charitable games event which is conducted without a license or which is conducted under a suspended or revoked license, or at which illegal gambling is conducted. Notice of assessment of a civil penalty shall be sent by certified mail, return receipt requested. The person or organization against whom a civil penalty has been assessed shall remit to the Illinois Department of Revenue the full amount of the penalty within 60 days after the date the notice was mailed.
 - 2) When charitable games equipment or gross proceeds are confiscated and forfeited to the State under subsection (b) above, or a civil penalty is assessed under subsection (c)(1) above, the organization entitled to possession of the equipment or proceeds at the time of confiscation or at the time a civil penalty is assessed may, within 60 days after the date of confiscation or imposition of the penalty, request, in writing, a hearing. The sole issue at such hearing shall be whether a charitable games event was conducted without a license, or under a suspended or revoked license, or whether illegal gambling was conducted at an otherwise properly licensed charitable games event.
 - 3) *Any person who violates any provision of the Act or knowingly violates any rule of the Department for the administration of the Act shall, in addition to other penalties provided, be subject to a civil penalty in the amount of \$250 for each separate violation (Section 11 of the Act). The penalty shall become final unless the person makes a written request for a hearing in writing within 60 days after the date the Department mailed the notice of its action. Persons subject to this provision include, but are not limited to, sponsoring organizations, volunteers, any licensee under the Act, or any other person or organization.*

(Source: Amended at 21 Ill. Reg. 3978, effective March 14, 1997)